

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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Jasso, et al.,

Case No. 2:20-cv-00858-CDS-BNW

**Plaintiffs,**

## ORDER

V.

Wells Fargo Bank, N.A., et al.,

### Defendants.

10 Before the Court is Plaintiffs' motion to seal, ECF No. 221, and Defendants' motion to  
11 seal, ECF No. 226. Neither motion is opposed, and Defendants submitted a response as additional  
12 support for Plaintiffs' motion.

## I. Legal Standard

Generally, the public has a right to inspect and copy judicial records. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Such records are presumptively publicly accessible. *Id.* Consequently, a party seeking to seal a judicial record bears the burden of overcoming this strong presumption. *Id.* In the case of dispositive motions, the party seeking to seal the record must articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process. *Id.* at 1178-79 (alteration and internal quotation marks and citations omitted). The Ninth Circuit has further held that the full presumption of public access applies to technically non-dispositive motions and attached documents as well, as long as the motion is “more than tangentially related to the merits of the case.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016).

Given the “weaker public interest in nondispositive materials,” the Court applies the good cause standard in evaluating whether to seal documents attached to a non-dispositive motion that are not more than tangentially related to the merits of the case. *Pintos v. Pacific Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010); *Ctr. for Auto Safety*, 809 F.3d at 1101. “Nondispositive

1 motions ‘are often unrelated, or only tangentially related, to the underlying cause of action,’ and,  
 2 as a result, the public’s interest in accessing dispositive materials does ‘not apply with equal  
 3 force’ to non-dispositive materials.” *Pintos*, 605 F.3d at 678 (citing *Kamakana*, 447 F.3d at  
 4 1179).

5 **II. ECF No. 221: Exhibits 3-7 to Plaintiffs’ Motion for Leave to File a Reply (ECF  
 6 No. 222) Will Remain Sealed and the Proposed Reply at ECF 222-1 Will Remain  
 7 Redacted, as Plaintiffs Have Met the Compelling Reasons Standard**

8 On January 31, 2022, this Court issued a report and recommendation denying Plaintiffs’  
 9 Motion to Amend. ECF No. 199 at p. 7. Plaintiffs objected (ECF No. 207) and are currently  
 10 seeking to file a reply in support of those objections (Motion for Leave to Reply at ECF No.  
 11 222).<sup>1</sup> Plaintiffs’ motion at ECF No. 221 seeks to seal Exhibits 3-7 attached to their Motion for  
 12 Leave to File a Reply at ECF No. 222. It also seeks to redact the substantive discussion of those  
 13 exhibits contained in the proposed reply at ECF No. 222-1.

14 The proposed reply is related to a dispositive motion, as the report and recommendation  
 15 denies Plaintiffs’ request to add a claim against Defendants (ECF No. 199 at p. 7).<sup>2</sup> Plaintiffs seek  
 16 to seal these documents because they contain “excerpts of policies and documents that have been  
 17 designated ‘Highly Confidential’ by Wells Fargo, and the Parties’ Stipulated Protective Order.”  
 18 ECF No. 221 at 2. Plaintiffs contend that the protective order requires such documents (and any  
 19 discussion of those documents) to be filed under seal. *Id.* Even though these documents may be  
 20 subject to a protective order, Ninth Circuit law still requires this Court to apply the compelling  
 21 reason standard. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (finding that  
 22 documents subject to a protective order are filed under seal as attachments to dispositive motions  
 23 are still subject to the ‘compelling reasons’ standard).

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25 <sup>1</sup> The proposed Reply is currently redacted at ECF No. 222-1. The sealed and unredacted version of the proposed  
 26 reply is at ECF No. 223-1.

27 <sup>2</sup> While the Court applies the “compelling reasons” standard for Plaintiffs’ motion, the motion still passes the “good  
 28 cause” standard proposed by Plaintiffs because “good cause” is a lower standard than the one the Court applies. The  
 Court applies the “compelling reasons” standard because the instant motion is directly related to a report and  
 recommendation that, if approved, would dispose of Plaintiffs’ claims completely.

1       The Court reviewed the documents at issue in Exhibits 3-7 and finds that compelling  
2 reasons exist to seal them. The documents contain sensitive information – and discussions about  
3 that sensitive information – regarding Wells Fargo’s business practices and procedures that could  
4 be used for an improper purpose if allowed into the public record. *See Kamakana*, 447 F.3d at  
5 1179.

6       The Court also reviewed the unredacted portions of the proposed reply (at ECF No. 223-1)  
7 and finds that compelling reasons exist for redaction. These portions contain sensitive business  
8 information that could be used for an improper purpose if allowed to be in the public record. *See*  
9 *Kamakana*, 447 F.3d at 1179.

10      Accordingly, the Court grants Plaintiffs’ motion to seal Exhibits 3-7 to ECF No. 222 and  
11 their request to maintain ECF No. 222-1 in a redacted format.

12      **III. ECF No. 226: Defendant’s Opposition to Plaintiffs’ Motion for Leave to File a  
13           Reply will Remain Redacted, and the Exhibit Attached to that Motion will  
14           Remain Sealed, as Plaintiffs Have Met the Compelling Reasons Standard**

15      Defendants seek to redact portions of their Opposition to Plaintiffs’ Motion for Leave to  
16 File a Reply at ECF No. 228 and to maintain the exhibit attached to the opposition under seal.<sup>3</sup>  
17 Defendants’ opposition relates to whether Plaintiffs should be allowed to file a reply in support of  
18 their objections to a report and recommendation. Thus, it does not relate to a dispositive matter  
19 nor is it more than tangentially related to the merits of the case. Defendants seek to seal these  
20 documents because the material is “derived from or relates to Wells Fargo’s internal, non-public  
21 investigative processes and procedures.” ECF No. 226 at 6.

22      The Court reviewed the unredacted portions of the opposition at issue (ECF No. 227) as  
23 well as the exhibit and finds that good cause exists to redact and seal this information. The  
24 information in question contains sensitive business information that could be used for an  
25 improper purpose if allowed to be in the public record. *See Kamakana*, 447 F.3d at 1179.  
26 Accordingly, the Court grants Defendants’ motion.

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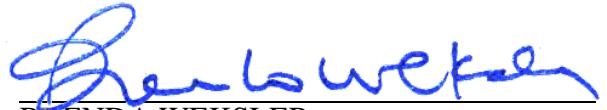
28 <sup>3</sup> The unredacted opposition and exhibit are currently sealed at ECF No. 227.

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2 IT IS THEREFORE ORDERED that Plaintiffs' motion at ECF No. 221 and Defendants'  
3 motion at ECF No. 226 are GRANTED.

4 IT IS FURTHER ORDERED that Exhibits 3-7 to Plaintiffs' Motion for Leave (ECF No.  
5 222) shall remain under seal, and any discussions of those exhibits in the motion will remain  
6 redacted.

7 IT IS FURTHER ORDERED that Exhibit 1 to Defendants' Opposition (ECF No. 227) shall  
8 remain sealed.

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10 DATED: July 8, 2022

  
11 BRENDAG WEKSLER  
12 UNITED STATES MAGISTRATE JUDGE  
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